

Certification of Consistency

Certification ID: C20186

Step 1 - Agency Profile

A. GOVERNMENT AGENCY:

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State Agency

☐

Local Agency

Government Agency: Department of Water Resources (DWR)

Primary Contact: Anitra Pawley

Address: 3310 El Camino Avenue Suite 145

City, State, Zip: Sacramento, CA 95821

Telephone/Fax: 916-480-5359 /

E-mail Address: anitra.pawley@water.ca.gov

B. GOVERNMENT AGENCY ROLE IN COVERED ACTION:

☒

Will Carry Out

☒

Will Approve

☒

Will Fund

Step 2 - Covered Action Profile

IT IS RECOMMENDED THAT YOU ENGAGE IN EARLY CONSULTATION WITH DSC STAFF AND/OR COMPLETE THE COVERED ACTION CHECKLIST TO DETERMINE IF THE PLAN, PROGRAM OR PROJECT IS CONSIDERED A COVERED ACTION AND TO IDENTIFY RELEVANT REGULATORY POLICIES

A. COVERED ACTION PROFILE: ☐ Plan ☐ Program ☒ Project

Title: Grizzly Slough Floodplain Restoration Project And McCormack-Williamson Tract Restoration Project (North Delta Project)

B. PROPONENT CARRYING OUT COVERED ACTION (If different than State or Local Agency):

Proponent Name: Anitra Pawley
Address: 3310 El Camino Avenue Suite 145
City, State, Zip: Sacramento, CA 95821

C. **AT LEAST 10 DAYS PRIOR TO THE SUBMISSION OF A CERTIFICATION OF CONSISTENCY TO THE COUNCIL**, agencies whose actions are not subject to open meeting laws (Bagley-Keene Open Meeting Act [Gov. Code sec 11120 et seq.] or the Brown Act [Gov. Code sec 54950 et seq.]) with regard to its certification, must post for public review and comment, their draft certification on their website and in their office, and mail to all persons requesting notice.

Any state or local public agency that is subject to open meeting laws with regard to its certification is also encouraged to take those actions.

(Note: Any public comments received during this process must be included in the record submitted to the Council in case of an appeal.)

If applicable, did you comply with this requirement? ☒ YES ☐ NO ☐ N/A

[NOI to Submit a Certification of Consistency.pdf](#)

D. COVERED ACTION SUMMARY: (Project Description from approved CEQA document may be used here)

The North Delta Project (Project) consists of flood control and habitat improvements in Sacramento County where the Mokelumne River, Cosumnes River, Dry Creek and Morrison Creek converge. Flood flows and high water conditions in this area threaten levees, bridges and roadways. The purpose of the Project is to implement flood control improvements in a manner that benefits aquatic and terrestrial habitats, species, and ecological processes at two locations 1) McCormack-Williamson Tract (MWT) and 2) Grizzly Slough. The MWT Project and the Grizzly Slough Project are being planned concurrently, but will be constructed separately, with the Grizzly Slough Project to be constructed first. Both of these sites are located within the Cosumnes River Preserve, an approximately 46,000-acre nature preserve collectively owned and managed by a consortium of cooperating local, state, and federal agencies as well as non-governmental organizations (NGOs). These two efforts will reduce flooding and provide contiguous aquatic and floodplain habitat (nearly 2,000 acres) along the downstream portion of the Cosumnes River Preserve by modifying levees on MWT and Grizzly Slough.

Grizzly Slough Project

The Grizzly Slough Project will restore natural flooding to DWR's Grizzly Slough property by breaching the levee on Grizzly Slough and excavating a channel network from the breach (see attached 65 Percent Design Plan set for the Grizzly Slough Project). The project will restore freshwater emergent tidal wetlands in the tidal zone (3 ac, including ~3000 linear feet of tidal channels), seasonal wetland (12 ac), and valley foothill riparian (91 ac) on the floodplain above mean higher high way (MHHW). Returning natural hydrologic processes will also enhance existing riparian (71 ac). Native vegetation will be established by natural recruitment (emergents in channel, cottonwood on floodplain) and planting. Floodplain areas above MHHW will be drill seeded with native grasses to forestall weeds, with patches of herbaceous and woody plants planted to jumpstart riparian establishment. Project will benefit species such as floodplain-rearing juvenile Chinook salmon, riparian-nesting Swainson's hawk, and foraging sandhill cranes.

McCormack Williamson Tract Project

The MWT Project will restore hydrologic connectivity to create freshwater tidal wetlands and seasonal floodplain within the interior of MWT to benefit native fish species and avian species. Currently the southern part of MWT is at subtidal elevation and gradually transitions to intertidal and upland elevations at the northern part of the tract. The project will degrade a section of levee along the Mokelumne River on the northeastern edge of MWT to function as a weir to allow flood flows to inundate the island. The levee along the southwest side of MWT will be degraded to allow flood flows to pass out of the tract without causing a surge effect and also allow tidal water to enter onto the southern end of the tract. The MWT project is expected to restore riparian habitat and seasonal floodplain primarily in the northern end of the Tract, freshwater tidal wetlands in northern and central portion of the Tract, and subtidal aquatic habitat at the southern end of the Tract.

[North Delta Project Final EIR.pdf](#), [North Delta Project Draft EIR.pdf](#)

E. STATUS IN THE CEQA PROCESS: NOD has been filed

F. STATE CLEARINGHOUSE NUMBER: 2003012112
(if applicable)

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 12/1/2018

ANTICIPATED END DATE: (If available) 12/31/2021

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$20,000,000.00

I. IF A CERTIFICATION OF CONSISTENCY FOR THIS COVERED ACTION WAS PREVIOUSLY N/A
SUBMITTED, LIST DSC REFERENCE NUMBER ASSIGNED TO THAT CERTIFICATION FORM:

J. SUPPORTING DOCUMENTS: [Grizzly Slough 65 Percent Design Plan Set.pdf](#), [Grizzly Slough Project Basis of Design.pdf](#), [Grizzly Slough Site Topography.pdf](#), [GS_MWT-MM_crosswalk_DeltaPlan_MMRP_08_17_2018.pdf](#), [Letter of Support - Bill Harrell DWR.pdf](#), [Letter of Support - George H Booth County of Sacramento.pdf](#), [Letter of Support - Harry L McQuillen BLM.pdf](#), [North Delta Project Draft EIR.pdf](#), [North Delta Project Final EIR MMRP.pdf](#), [North Delta Project Final EIR.pdf](#), [MWT AM Framework.pdf](#), [GrizzlySlough_Adaptive Management Plan.pdf](#), [MWT Topography.PDF](#), [Delta Plan Certification of Consistency - Detailed Findings.pdf](#), [GS_CEQA_Addendum_FINAL.pdf](#)

Step 3 - Consistency with the Delta Plan

DELTA PLAN CHAPTER 2

G P1 / 23 CCR SECTION 5002 – Detailed Findings to Establish Consistency with the Delta Plan.

In General: (23 CCR SECTION 5002 (a), (b), (1)) This regulatory policy specifies what must be addressed in a certification of consistency filed by a State or local public agency with regard to any covered action.

This regulatory policy only applies after a “proposed action” has been determined by a State or local public agency to be a covered action because it is covered by one or more of the regulatory policies listed under Delta Plan Chapters 3, 4, 5, and 7 of this form. Inconsistency with this policy may be the basis for an appeal.

Covered actions, in order to be consistent with the Delta Plan, must be consistent with this regulatory policy and with each of the regulatory policies listed under Delta Plan Chapters 3, 4, 5 and 7 of this form implicated by the covered action. The Delta Stewardship Council acknowledges that in some cases, based upon the nature of the covered action, full consistency with all relevant regulatory policies may not be feasible. In those cases, the agency that files the certification of consistency may nevertheless determine that the covered action is consistent with the Delta Plan because, on whole, that action is consistent with the coequal goals. That determination must include a clear identification of areas where consistency with relevant regulatory policies is not feasible, an explanation of the reasons why it is not feasible, and an explanation of how the covered action nevertheless, on whole, is consistent with the coequal goals. That determination is subject to review by the Delta Stewardship Council on appeal;

Specific requirements of this regulatory policy:

Mitigation Measures (23 CCR SECTION 5002 (b), (2))

- a. The covered action is not exempt from CEQA, and includes applicable feasible mitigation measures identified in the Delta Plan’s Program Environmental Impact Report, (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute mitigation measures that the agency that files the certification of consistency finds are equally or more effective.

Is the covered action consistent with this portion of the regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification:

Grizzly Sough Project: The North Delta EIR and CEQA Addendum for the Grizzly Slough Project has identified mitigation measures which meet, exceed, or are functionally equivalent to those identified in the Delta Plan MMRP. McCormack Williamson Tract Project: The North Delta EIR and MWT Project has identified measures that comport with those in the Delta Plan. A subsequent CEQA document will be prepared once the 65% project design is complete. [GS MWT-MM crosswalk DeltaPlan MMRP 08 17 2018.pdf](#), [North Delta Project Final EIR MMRP.pdf](#), [North Delta Project Final EIR.pdf](#), [North Delta Project Draft EIR.pdf](#), [MWT AM Framework.pdf](#), [GrizzlySlough Adaptive Management Plan.pdf](#), [GS CEQA Addendum FINAL.pdf](#)

Best Available Science (23 CCR SECTION 5002 (b), (3))

- b. The covered action documents use of best available science as relevant to the purpose and nature of the project.

Is the covered action consistent with this portion of the regulatory policy? [Appendix 1A](#) is referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification:

Development of the North Delta Project utilized a wide range of relevant data, literature, modeling tools, and scientific experts. DWR used the best available scientific information to develop project design and analyze the effects of the project, drawing on a number of scientific and engineering-related disciplines that include hydrology, ecology, and civil engineering. The impact analysis produced for the North Delta Project were subject to review and comment by the general public under the California Environmental Quality Act (CEQA) process and experts in relevant scientific disciplines (Science Panels). A more detailed explanation of the use of best available science practices as relevant to the purpose and nature of the Project is described in the attached document, “Certification of Consistency: Detailed Findings”, and additional documents referenced within. Based on these findings, the Project is consistent with this policy. [Grizzly Slough 65 Percent Design Plan Set.pdf](#), [Grizzly Slough Project Basis of Design.pdf](#), [Delta Plan Certification of Consistency - Detailed Findings.pdf](#)

Adaptive Management (23 CCR SECTION 5002 (b), (4))

The covered action involves ecosystem restoration or water management, and includes adequate provisions, appropriate to its scope, to assure continued implementation of adaptive management

Is the covered action consistent with this portion of the regulatory policy? [Appendix 1B](#) is referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification: Refer to attached Adaptive Management Plan developed for the Grizzly Slough Project and the Adaptive Management Framework developed for the MWT Project. [MWT AM Framework.pdf](#), [GrizzlySlough_Adaptive Management Plan.pdf](#)

DELTA PLAN CHAPTER 3**[WR P1 / 23 CCR SECTION 5003](#) - Reduce Reliance on the Delta through Improved Regional Water Self-Reliance**

Is the covered action consistent with this regulatory policy?

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not export water from or transfer through the Delta. The covered action will not affect whether or not water suppliers receive water from the Delta.

[WR P2 / 23 CCR SECTION 5004](#) - Transparency in Water Contracting

Is the covered action consistent with this regulatory policy? [Appendix 2A](#) and [Appendix 2B](#) are referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not involve contracting for water from the State Water Project and/or the Central Valley Project

DELTA PLAN CHAPTER 4**Conservation Measure: (23 CCR SECTION 5002 (c))**

A conservation measure proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan that was:

(1) Developed by a local government in the Delta; and

(2) Approved and permitted by the California Department of Fish and Wildlife prior to May 16, 2013

is deemed to be consistent with the regulatory policies listed under Delta Plan Chapter 4 of this form (i.e. sections 5005 through 5009) if the certification of consistency filed with regard to the conservation measure includes a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife.

Is a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife available?

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action is not pursuant to implementation of existing natural community conservation plan or a habitat conservation plan.

[ER P1 / 23 CCR SECTION 5005](#) - Delta Flow Objectives

Is the covered action consistent with this regulatory policy?

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not significantly affect flow in the Delta.

[ER P2 / 23 CCR SECTION 5006](#) - Restore Habitats at Appropriate Elevations

Is the covered action consistent with this regulatory policy? [Appendix 3](#) and [Appendix 4](#) are referenced in this regulatory policy.

☒ YES ☐ NO ☐ N/A

Answer Justification:

Figure 4 of Appendix 3 of the Delta Plan presents a map showing which natural habitat types could be restored in the Delta based solely on current land elevation. The project sites have elevations suitable for various potential habitat types, including tidal wetlands, marsh-upland transitional habitat (sea level rise accommodation), and floodplain habitat (see Topography maps). The Grizzly Slough and MWT Projects are consistent with Delta Plan ER P2 since restoration designs were informed in large part by existing elevations. The projects are designed to re-establish natural ecosystem processes, thereby creating habitat conditions presumably more conducive for native species than for non-native vegetation and wildlife species. A more detailed explanation regarding the consistency of the MWT and Grizzly Slough Projects with Delta Plan Policy ER P2 are included in the attached document, "Certification of Consistency: Detailed Findings". [Grizzly Slough Site Topography.pdf](#), [Delta Plan Certification of Consistency - Detailed Findings.pdf](#), [MWT Topography.PDF](#)

[ER P3 / 23 CCR SECTION 5007](#) - Protect Opportunities to Restore Habitat

Is the covered action consistent with this regulatory policy? [Appendix 4](#) and [Appendix 5](#) are referenced in this regulatory policy.

☒ YES

☐ NO

☐ N/A

Answer Justification:

The Grizzly Slough Project site is located near, although not technically within, the Cosumnes-Mokelumne River Confluence Priority Habitat Restoration Area (PHRA) as designated by Appendix 5 of the Delta Plan. The Project is part of DWR's larger strategy to implement flood improvement and habitat restoration improvements in the North Delta region. The MWT Project is located within the Cosumnes-Mokelumne River Confluence Priority Habitat Restoration Area (PRHA) and is intended to restore floodplain and tidal marsh habitats. Since the MWT is at a slightly lower elevation than the Grizzly Slough Project, the MWT Project is expected to restore a larger proportion of its site to tidal wetland habitat than the Grizzly Slough Project, which will principally result in restoration of riparian forest and seasonal floodplain. The planning of both projects is coordinated by the same DWR team and thus designed to be fully compatible with each other. Additional modelling and monitoring results collected as part of the Grizzly Slough effort will be used to refine and adjust planning for MWT restoration, which will be implemented at a later date than the Grizzly Slough Project. Both the efforts at Grizzly Slough and MWT will not interfere with future opportunities to restore habitat within the Cosumnes-Mokelumne River Confluence and are expected to provide ecosystem benefits regionally by restoring floodplain processes that will provide additional food resources to aquatic species and restore riparian habitat to benefit riparian species such as nesting songbirds. For more information regarding how the North Delta Project will restore habitat, including within an area designated as a Delta Plan PHRA, please reference the attached document Certification of Consistency: Detailed Findings, specifically the sections of the document regarding the "Project Description" and "Best Available Science." [North Delta Project Final EIR.pdf](#), [North Delta Project Draft EIR.pdf](#), [Delta Plan Certification of Consistency - Detailed Findings.pdf](#)

[ER P4 / 23 CCR SECTION 5008](#) - Expand Floodplains and Riparian Habitats in Levee Projects

Is the covered action consistent with this regulatory policy? [Appendix 8](#) is referenced in this regulatory policy.

☐ YES

☐ NO

☒ N/A

Answer Justification:

The Project does not involve substantial rehabilitation or construction of Project or non-Project levees in the Delta that provide flood protection for Delta islands. The project elements included in the North Delta Project are sponsored by the Delta Levees North Delta Program to satisfy the "net habitat improvement" goal in AB360. The Grizzly Slough Project is not located in the area referenced in Appendix 8; though it will include an interior setback levee, designed to ensure a level of flood protection for the agricultural properties located to the south of the Project site at a similar level as pre-Project conditions. The MWT Project will breach levees to provide tidal marsh and floodplain habitat where agricultural areas once existed. The Project will provide a net increase in tidal marsh, riparian habitat and seasonal floodplain habitat within the Delta.

[ER P5 / 23 CCR SECTION 5009](#) - Avoid Introductions of and Habitat for Invasive Nonnative Species

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification:

The North Delta Project is intended to provide beneficial habitat conditions for the Delta's native species. However, since the Delta is occupied by a multitude of both invasive species and introduced non-native species which have naturalized to the estuary, restoration projects can potentially create new habitats which can be unintentionally colonized by these species, including noxious weeds and non-native wildlife. Establishment of new aquatic habitat by breaching or degrading a levee creates new habitat opportunities for native fish, but also the potential for the aquatic habitat to become occupied by transitory non-native fish species such as striped bass and resident non-native fish species such as largemouth bass. The adaptive management plan for the Grizzly Slough Project includes monitoring metrics, management triggers, and potential management responses regarding invasive plants. The adaptive management framework for the MWT Project similarly includes potential monitoring metrics, management triggers, and potential management responses regarding invasive terrestrial and aquatic vegetation – with the caveat that the precise nature of these elements are subject to change as the project evolves and the adaptive management plan is developed. The design for both Projects includes vegetation plantings to minimize opportunities for undesired colonization by weedy species. A more detailed explanation regarding the consistency of the McCormack-Williamson Tract and Grizzly Slough Projects with Delta Plan Policy ER P5 are included in the attached document Certification of Consistency: Detailed Findings. [Grizzly Slough Project Basis of Design.pdf](#), [Delta Plan Certification of Consistency - Detailed Findings.pdf](#), [MWT AM Framework.pdf](#), [GrizzlySlough Adaptive Management Plan.pdf](#)

DELTA PLAN CHAPTER 5

[DP P1 / 23 CCR SECTION 5010](#) - Locate New Urban Development Wisely

Is the covered action consistent with this regulatory policy? [Appendix 6](#) and [Appendix 7](#) are referenced in this regulatory policy.

☐ YES ☐ NO ☒ N/A

Answer Justification: The covered action does not involve new residential, commercial, or industrial development.

[DP P2 / 23 CCR SECTION 5011](#) - Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats

Is the covered action consistent with this regulatory policy?

☒ YES ☐ NO ☐ N/A

Answer Justification:

The North Delta Project is designed to avoid or reduce conflicts with and enhance the function of existing adjacent property uses including mitigation properties and surrounding agricultural uses. Specifically, the Project will bring more natural flooding to the sites, enhancing the hydrology of the existing mitigation areas on the Grizzly Slough site, and reducing flood risk to the North Delta region overall. Both the Grizzly Slough and MWT Project will involve conversion of agricultural areas into natural habitat types including seasonal floodplain, riparian habitat, and tidal wetlands. Any conflicts with any local or regional policies regarding protection of agricultural land resources have been obviated through essentially advanced mitigation at Staten Island. With funds provided by DWR, Staten Island was acquired by The Nature Conservancy (TNC) specifically for the purposes of the North Delta Project. As a condition of the funding, TNC entered into an agreement providing DWR with an exclusive and perpetual conservation easement for the entirety of Staten Island – in essence to act as advance mitigation for DWR regarding any agricultural land conversion that would result from the North Delta Project. With this agreement in place, any impacts to agricultural land resources as a result of restoration activities at MWT or Grizzly Slough have been fully mitigated (note: Grizzly Slough property is about 489 acres and MWT is about 1,645 acres while Staten Island is about 9,200 acres). A more detailed explanation regarding the consistency of the McCormack-Williamson Tract and Grizzly Slough Projects with Delta Plan Policy DP P2 is included in the attached document Certification of Consistency: Detailed Findings. Also, refer to North Delta Project Draft EIR (pages 5.1-22 and 5.1-23). [North Delta Project Draft EIR.pdf](#), [Letter of Support - Bill Harrell DWR.pdf](#), [Letter of Support - George H Booth County of Sacramento.pdf](#), [Letter of Support - Harry L McQuillen BLM.pdf](#), [Delta Plan Certification of Consistency - Detailed Findings.pdf](#)

DELTA PLAN CHAPTER 7

[RR P1](#) - Prioritization of State Investments in Delta Levees and Risk Reduction

Is the covered action consistent with this regulatory policy?

☐ YES

☐ NO

☒ N/A

Answer Justification:

The North Delta Project is consistent with the interim priorities for state investment in Delta flood management, particularly those related to localized flood protection and ecosystem conservation. The North Delta Project will reestablish more natural flooding regimes by reconnecting river flows back to historical floodplain habitat, thereby reducing local flood risk to properties both upstream and downstream of the Project and opening up new habitat for those native Delta species which utilize seasonal floodplains (e.g., Sacramento splittail). The MWT Project will also reduce the flood surges downstream of MWT that occur under existing conditions which can be particularly destructive to downstream properties and infrastructure. A more detailed explanation regarding the consistency of the MWT and Grizzly Slough Projects with Delta Plan Policy RR P1 are included in the attached document Certification of Consistency: Detailed Findings. [Delta Plan Certification of Consistency - Detailed Findings.pdf](#)

RR P2 - Require Flood Protection for Residential Development in Rural Areas.

Is the covered action consistent with this regulatory policy? [Appendix 7](#) is referenced in this regulatory policy.

☐ YES

☐ NO

☒ N/A

Answer Justification: The covered action does not include any residential development.

RR P3 - Protect Floodways

Is the covered action consistent with this regulatory policy?

☐ YES

☐ NO

☒ N/A

Answer Justification:

Delta Plan Policy RR P3 requires that no encroachments be placed in floodways that are not neither a designated floodway or a regulated stream – since these are already under the regulatory jurisdiction of the Central Valley Flood Protection Board – unless there is sufficient analysis that such an encroachment would not impede free flow of water in that floodway or jeopardize public safety. The proposed project does not encroach on the floodway, but instead provides additional floodplain habitat and flood storage. As such, the Project would result in reduced flood risks to the North Delta region. Despite this assertion, the Project is consulting with the Central Valley Flood Protection Board to ensure it is compatible with existing rules of encroachments. In addition, DWR is making refinements to Project design based on hydrologic modelling outputs to ensure that both the MWT and Grizzly Slough Projects do not result in increases to river stage relative to existing conditions (note: any predicted changes in flood stage of less than or equal to 0.5 feet is considered within the margin of modelling error).

RR P4 - Floodplain Protection

Is the covered action consistent with this regulatory policy?

☒ YES

☐ NO

☐ N/A

Answer Justification:

The North Delta Project will not include any infrastructure-related encroachments into this floodplain (e.g., bridge abutments) – rather the Grizzly Slough and MWT Projects will improve floodplain function by reconnecting flood flows back to historical Delta floodplains. Although these projects will facilitate reestablishment of vegetation within the restored floodplain through intentional planting or natural recruitment, a key purpose of these two projects is to provide net benefits to flood stage reduction in the northeast Delta, based on hydrologic modeling. For more details on this matter, refer the attached document Certification of Consistency: Detailed Findings and the other documents listed below. [North Delta Project Final EIR.pdf](#), [North Delta Project Draft EIR.pdf](#), [Grizzly Slough Project Basis of Design.pdf](#), [Delta Plan Certification of Consistency - Detailed Findings.pdf](#)